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Attorneys for Cross-Defendant, SUNNYSLOPE
COUNTY WATER DISTRICT

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

JOSEPH VALLEJO, VICTOR
ESPERICUETA and CHRISTOPHER JONES
on behalf of themselves and all others
similarly situated,

Plaintiff,

vs.

THE NEIL JONES FOOD COMPANY, dba
SAN BENITO FOODS,

Defendant.

THE NEIL JONES FOOD COMPANY, dba
SAN BENITO FOODS,

Cross-Complainant,

vs.

SUNNYSLOPE COUNTY WATER
DISTRICT, a proprietary entity; ROES 1-10,
inclusive,

Cross-Defendant.

Case No. 5:24-cv-06835-NW

**NOTICE OF MOTION AND MOTION TO
DISMISS THE NEIL JONES FOOD
COMPANY DBA SAN BENITO FOODS
CROSS-COMPLAINT**

Date: October 1, 2025

Time: 9:00 a.m.

Crtrm.: 3 – 5th Floor

Trial Date: None Set

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PLEASE TAKE NOTICE that on October 1, 2025 at 9:00 a.m. or as soon thereafter as the matter may be heard by the Honorable Noel Wise, Courtroom 3, of the United States District Court, Northern District of California, located at 280 South 1st Street, San Jose, CA 95113, Cross-Defendant Sunnyslope County Water District ("SCWD") will, and hereby does, move to dismiss the Third through Sixth causes of action from Cross-Complainant THE NEIL JONES FOOD COMPANY, dba SAN BENITO FOODS' ("NJFC" or "Cross-Complainant") Cross-Complaint pursuant to Federal Rules of Civil Procedure ("FRCP") 12(b)(6). The legal basis for the Motion to Dismiss is as follows:

Pursuant to FRCP 12(b)(6), Cross-Defendant moves to dismiss the Third through Sixth causes of action of the Cross-Complaint on the ground that they fail to state a cause of action against public entity SCWD in that they fail to state a statutory basis for liability as required by California Government Code Section 815(a).

The Motion is based on this Notice of Motion and Motion to Dismiss, the accompanying Memorandum of Points and Authorities and all facts the Court may or should take judicial notice of, the pleadings, records, and files in this action, and any oral or documentary evidence presented at the hearing on this Motion.

DATED: June 17, 2025

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Joseph A. Salazar, Jr.
JOSEPH A. SALAZAR JR.
Attorneys for Cross-Defendant, SUNNYSLOPE
COUNTY WATER DISTRICT

FEDERAL COURT PROOF OF SERVICE

Joseph Vallejo, et al. v. The Neil Jones Food Company, et al.
Case No. 5:24-cv-06835-NW

STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

At the time of service, I was over 18 years of age and not a party to the action. My business address is 2020 West El Camino Avenue, Suite 700, Sacramento, CA 95833. I am employed in the office of a member of the bar of this Court at whose direction the service was made.

On June 17, 2025, I served the following document(s):

- NOTICE OF MOTION AND MOTION TO DISMISS THE NEIL JONES FOOD COMPANY DBA SAN BENITO FOODS CROSS-COMPLAINT

I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

SEE ATTACHED SERVICE LIST

The documents were served by the following means:

- ☒ (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on June 17, 2025, at Sacramento, California.

/s/ Alicia Crespo
Alicia Crespo

SERVICE LIST
Joseph Vallejo, et al. v. The Neil Jones Food Company, et al.
Case No. 5:24-cv-06835-NW

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